

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
WINCHESTER DIVISION  
WINCHESTER, TENNESSEE

**FILED**

MAY 23 2011

Clerk, U. S. District Court  
Eastern District of Tennessee  
At Winchester

THREE T NURSERY; TRAVIS )  
WANAMAKER; ANTHONY WANAMAKER; )  
AND CATRENIA WANAMAKER, )

PLAINTIFFS )

VS. )

RURAL COMMUNITY INSURANCE )  
AGENCY, INC.; FEDERAL CROP )  
INSURANCE CORPORATION; RISK )  
MANAGEMENT AGENCY; UNITED )  
STATES DEPARTMENT OF )  
AGRICULTURE AND UNITED STATES )  
SECRETARY OF AGRICULTURE )  
TOM VILSACK )

DEFENDANTS )

CIVIL ACTION NO. 4:11-cv-29  
*Mattie Carter*  
JURY TRIAL DEMANDED

Serve: Rural Community Insurance Agency, Inc.  
Serve By and Through Its Registered Agent for Service of Process:  
Corporation Service Company  
2908 Poston Avenue  
Nashville, Tennessee 37203

Federal Crop Insurance Corporation  
Serve By and Through United States Attorney General  
Hon. Eric H. Holder, Jr.  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530-0001

Federal Crop Insurance Corporation  
Serve By and Through United States Attorney - Eastern District of Tennessee  
Hon. William C. Killian  
800 Market Street, Suite 211  
Knoxville, Tennessee 37902

Federal Crop Insurance Corporation  
Serve By and Through United States Secretary of Agriculture  
Sec. Tom Vilsack  
United States Department of Agriculture  
1400 Independence Avenue, S.W.  
Washington, D.C. 20250-0801

Risk Management Agency  
Serve By and Through United States Attorney General  
Hon. Eric H. Holder, Jr.  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530-0001

Risk Management Agency  
Serve By and Through United States Attorney - Eastern District of Tennessee  
Hon. William C. Killian  
800 Market Street  
Knoxville, Tennessee 37902

Risk Management Agency  
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United States Department of Agriculture  
1400 Independence Avenue, S.W.  
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United States Secretary of Agriculture Tom Vilsack  
Serve at:  
United States Department of Agriculture  
1400 Independence Avenue  
Washington, D.C. 20250-0801

United States Secretary of Agriculture Tom Vilsack  
Serve By and Through United States Attorney General  
Hon. Eric H. Holder, Jr.  
United States Department of Justice  
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United States Secretary of Agriculture Tom Vilsack  
Serve By and Through United States Attorney - Eastern District of Tennessee  
Hon. William C. Killian  
800 Market Street, Suite 211  
Knoxville, Tennessee 37902

\* \* \* \* \*

**COMPLAINT AND  
DEMAND FOR TRIAL BY JURY**

\* \* \* \* \*

Come the Plaintiffs, Three T Nursery, Travis Wanamaker, Anthony Wanamaker and  
Catrenia Wanamaker, and for their Complaint and causes of action herein against the Defendants,  
Rural Community Insurance Agency, Inc., Federal Crop Insurance Corporation, Risk

Management Agency, United States Department of Agriculture and United States Secretary of Agriculture Tom Vilsack, state as follows:

1. Plaintiff Travis Wanamaker is an individual resident of McMinnville, Warren County, Tennessee, with a residential address of 1557 Dry Shave Road, McMinnville, Tennessee 37110 and Plaintiff Travis Wanamaker is the owner and operator of a farming and nursery business known and operated as Three T Nursery, which is located and operated in Grundy County, Tennessee and in Warren County, Tennessee.

2. Plaintiffs Anthony Wanamaker and Catrenia Wanamaker are individual residents of McMinnville, Warren County, Tennessee with a current residential address of 57 Dry Shave Road, McMinnville, Warren County, Tennessee 37110 and Plaintiffs Anthony Wanamaker and Catrenia Wanamaker are former owners and operators of Plaintiff Three T Nursery.

3. Defendant Rural Community Insurance Agency, Inc. is a Minnesota for profit corporation authorized to do business in and doing business in the State of Tennessee, particularly in the counties contained in the Winchester Division of the Eastern District of the United States District Court in Tennessee, which operates in Tennessee under the assumed name of Rural Community Insurance Services, which such Defendant is hereinafter referred to as "RCIS", which sells and provides insurance coverage to individuals, businesses and upon property and assets located in Grundy County and Warren County, Tennessee, and service upon Defendant RCIS should be made by and through its registered agent for service of process in Tennessee, Corporation Service Company, at 2908 Poston Avenue, Nashville, Tennessee 37203.

4. Defendant Federal Crop Insurance Corporation, hereinafter referred to as "FCIC", is an

agency of the United States within the Department of Agriculture and service regarding and upon the FCIC should be made by and through the Attorney General of the United States, Hon. Eric H. Holder, Jr., at the United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530-0001, by and through the United States Attorney for the Eastern District of Tennessee, Hon. William C. Killian, at the Office of the United States Attorney located at 800 Market Street, Suite 211, Knoxville, Tennessee 37902 and by and through the United States Secretary of Agriculture, Sec. Tom Vilsack, at the United States Department of Agriculture, 1400 Independence Avenue, S.W., Washington, D.C. 20250-0801.

5. Defendant Risk Management Agency, hereinafter referred to as “RMA”, is an agency of the United States within the Department of Agriculture and service regarding and upon the RMA should be made by and through the Attorney General of the United States, Hon. Eric H. Holder, Jr., at the United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530-0001, by and through the United States Attorney for the Eastern District of Tennessee, Hon. William C. Killian, at the Office of the United States Attorney located at 800 Market Street, Suite 211, Knoxville, Tennessee 37902 and by and through the United States Secretary of Agriculture, Sec. Tom Vilsack, at the United States Department of Agriculture, 1400 Independence Avenue, S.W., Washington, D.C. 20250-0801.

6. Defendant United States Department of Agriculture, hereinafter referred to as “USDA”, is a Department of the United States and Defendant United States Secretary of Agriculture Tom Vilsack is a residentially appointed member of the Cabinet of the Executive Branch of the United States Government and service regarding and upon the USDA upon Secretary Vilsack should be made by and through the Attorney General of the United States,

Hon. Eric H. Holder, Jr., at the United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530-0001, by and through the United States Attorney for the Eastern District of Tennessee, Hon. William C. Killian, at the Office of the United States Attorney located at 800 Market Street, Suite 211, Knoxville, Tennessee 37902 and by, through and upon the United States Secretary of Agriculture, Sec. Tom Vilsack, at the United States Department of Agriculture, 1400 Independence Avenue, S.W., Washington, D.C. 20250-0801.

7. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 as the Plaintiffs assert claims arising under the laws of the United States, pursuant to 28 U.S.C. § 1332 with regard to Defendant RCIS as there is diversity of citizenship between the Plaintiffs and such Defendant and as the amount in controversy exceeds the minimum jurisdictional requirements of this Court, pursuant to 28 U.S.C. § 1346 with regard to Defendants FCIC, RMA, USDA and Secretary of Agriculture tom Vilsack as such Defendants are agencies and/or departments of the United States and pursuant to the Federal Crop Insurance Act, 7 U.S.C. § 1501, et seq., and this Court has supplemental jurisdiction over the State law claims against Defendant RCIS pursuant to 28 U.S.C. § 1367.

8. Venue is proper in this judicial district and before this Court pursuant to 28 U.S.C. § 1391(a)(2), (b)(2) and (e)(2) because the events giving rise to the claims involved herein occurred within this judicial district, pursuant to 28 U.S.C. § 1402(a)(1) because the Plaintiffs reside in this judicial district and pursuant to 7 U.S.C. § 1508, Chapter 36(j)(2)(A) due to the fact the insured farm(s) are located within this judicial district.

9. Defendant RCIS, in conjunction with the FCIC and the RMA, pursuant to a Standard Reinsurance Agreement, sold and issued a policy of insurance to and for the benefit of Plaintiff

Travis Wanamaker and to and for the benefit of Plaintiff Three T Nursery, by and through its authorized agent for obtaining such insurance, Plaintiff Travis Wanamaker, which such policy was sold and obtained for the benefit of Plaintiff Three T Nursery and its owner(s) for the 2007 crop year, which such policy provided insurance coverage for the crops, products, farm and nursery materials and inventory of Plaintiff Three T Nursery located upon the property operated as Three T Nursery Grundy County, Tennessee and in Warren County, Tennessee.

10. On or about April 6, 2007, a freeze, severe cold, low temperatures and/or a frost damaged the farm, nursery crops and inventory of the farms operated as Plaintiff Three T Nursery and insurance claims were made and filed by Plaintiff Travis Wanamaker for, on behalf of and/or regarding Plaintiff Travis Wanamaker, Plaintiff Three T Nursery and the owner(s) of Plaintiff Three T Nursery at the time upon the policy of insurance provided by Defendant RCIS, in conjunction with Defendants FCIC and RMA, in order to recover and collect the damages suffered as a result of such freeze, severe cold, low temperature and/or frost damage pursuant to such contract of insurance.

11. Such insurance policy from Defendant RCIS, in conjunction with Defendants FCIC and RMA, provided coverage for the damages incurred as a result of such freeze, severe cold, low temperatures and/or frost which occurred on or about April 6, 2007, which such damages exceed the minimum jurisdictional limits of this Court.

12. Plaintiff Travis Wanamaker and Plaintiff Three T Nursery, by and through Plaintiff Travis Wanamaker, properly made a claim for such damages upon the policy issued by Defendant RCIS, in conjunction with Defendants FCIC and RMA, and all of such Defendants, RCIS, FCIC and RMA, are jointly and severally liable for such damages to Plaintiff Travis

Wanamaker, Plaintiff Three T Nursery and their owner(s) at the time pursuant to such Defendants' contract of insurance.

13. The Defendants, RCIS, FCIC and RMA, breached their contractual obligations to the Plaintiffs by failing to properly pay the insurance claim made against such policy issued by Defendant RCIS, in conjunction with Defendants FCIC and RMA, and each of such Defendants are jointly and severally liable for the damages suffered by the Plaintiffs as a result of such freeze, severe cold, low temperature and/or frost which occurred on or about April 6, 2007.

14. By issuing such policy of insurance covering Plaintiff Three T Nursery and the farming and nursery enterprises, products, inventory and materials of Plaintiff Three T Nursery in Grundy County, Tennessee and in Warren County, Tennessee, the Defendants, RCIS, FCIC and RMA, were doing an insurance or fidelity bonding business in the State of Tennessee and because all of such Defendants failed and refused to pay the loss suffered by the Plaintiffs as a result of such freeze, severe cold, low temperatures and/or frost which occurred on or about April 6, 2007 within sixty (60) days after demand was properly made upon such policy, each of such Defendants, RCIS, FCIC and RMA, have committed bad faith insurance settlement practices and bad faith refusal to pay pursuant to the Tennessee Code, Section 56-7-105 and other applicable Tennessee Code provisions pertaining to insurance claim settlement practices and bad faith, and such Defendants are, therefore, liable to the Plaintiffs for an additional sum beyond the amount of the claim owed upon the policy, in the amount of an additional twenty-five percent (25%) of the liability for such loss, due to the fact that such denial and refusal to pay was not in good faith and such refusal to pay inflicted additional expense, loss and injury, including attorneys fees and costs, upon the Plaintiffs.



15. Pursuant to Chapter 36 of the Federal Crop Insurance Act, as amended, and as codified at Part 457 of Title 7 of the Code of Federal Regulations, the insurance policy involved in this action and provided by Defendant RCIS, in conjunction with Defendants FCIC and RMA, is reinsured by Defendant FCIC, pursuant to the supervision and management of Defendants RMA., the United States Department of Agriculture and Secretary of Agriculture Tom Vilsack.

16. Following adjustment of the claims by Defendant RCIS and the subsequent denial of the claims by Defendant RCIS, the claims were submitted for arbitration pursuant to the terms of the applicable insurance policy through the American Arbitration Association.

17. An Arbitration Award was issued by the applicable Commercial Arbitration Tribunal of the American Arbitration Association on May 24, 2010, which awarded Plaintiff Travis Wanamaker \$27,999.00 but which denied any further recovery or damages.

18. Pursuant to Sections 20 and 25 of the applicable insurance policy and pursuant to the Federal Crop Insurance Act, 7 U.S.C. 1501, et seq., the Plaintiffs are now entitled to bring legal action against the Defendants, RCIS, FCIC, RMA, USDA and Secretary of Agriculture Tom Vilsack, requesting a judicial determination regarding the validity of the Plaintiffs' claim for damages, determining the amount of damages to which the Plaintiffs are entitled from the Defendants, and awarding the Plaintiffs interest upon the amount of damages awarded, pursuant to the applicable policy and/or the Federal Crop Insurance Act.

19. The Plaintiffs are also entitled to recover their attorneys fees and other expenses incurred and are entitled to recover punitive damages, in addition to the compensatory damages suffered by the Plaintiffs as a result of the freeze, severe cold, low temperatures and/or frost damage which occurred on or about April 6, 2007, all of which such damages, including the

punitive damages, total \$5,000,000.00, due to the fact that the Defendants, RCIS, FCIC, RMA and USDA, acted with fraud and malice in denying the Plaintiffs' claims, due to the fact that the Plaintiffs relied upon the issuance of the applicable policy of insurance by the Defendants and were thereby estopped from pursuing other policies of insurance, due to the fact that such Defendants failed to comply with the terms of the applicable insurance policy and the applicable procedures to which such policy and the adjustment of claims under the policy are subject, and due to the wrongful and bad faith denial of the Plaintiffs' claims for damages.

WHEREFORE, the Plaintiffs, Three T Nursery, Travis Wanamaker, Anthony Wanamaker and Catrenia Wanamaker, demand as follows:

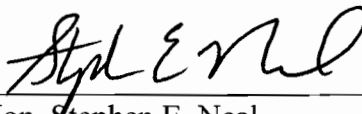
1. That a Judgment be entered herein in favor of the Plaintiffs against the Defendants, jointly and severally, for the freeze, severe cold, low temperatures and/or frost suffered by the Plaintiffs as a result of the freeze, severe cold, low temperatures and/or frost which occurred on or about April 6, 2007;
2. For a Judgment in favor of the Plaintiffs against the Defendants, jointly and severally, for the attorneys fees and costs incurred by the Plaintiffs as a result of the actions of the Defendants complained of herein;
3. For a Judgment in favor of the Plaintiffs against the Defendants, jointly and severally, awarding punitive damages to the Plaintiffs from such Defendants;
4. For a Judgment in favor of the Plaintiffs against the Defendants, jointly and severally, awarding pre and post Judgment interest; and
5. Any and all other relief to which the Plaintiffs may appear entitled and which this Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

The Plaintiffs hereby demand a jury trial on all issues so triable raised in this action.

Respectfully submitted by:

WHITE PECK CARRINGTON, LLP  
Post Office Box 950  
Mt. Sterling, Kentucky 40353  
TELEPHONE: (859) 498-2872  
FACSIMILE: (859) 498-2877

BY:   
Hon. Stephen E. Neal

bn:pld/WanamakerTravis.FederalComplaint.2007Crop